

## **CHAPTER 5**

# **GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS**

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The following general regulations apply within all shoreline environment designations. These provisions are to be used in conjunction with the more specific shoreline use and modification regulations in Chapter 6.

### **5.1 General Shoreline Use and Development Regulations**

1. Shoreline uses and developments that are water-dependent are preferred uses in the shoreline and shall be given priority.
2. Nonwater-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
3. All shoreline developments and uses shall be located, designed and constructed to avoid, minimize and mitigate for adverse impacts to shoreline ecological functions.
4. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of, or minimize adverse impacts to, critical saltwater habitat and critical fish and wildlife habitat conservation areas, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not feasible, the developments shall incorporate mitigation measures to protect species and habitat functions consistent with SMC 21.64.087.
5. All heavy construction equipment, and fuel storage, repair and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions.
6. All debris, overburden and other waste materials from construction shall be disposed of to prevent them from entering any water body by erosion from drainage, high water or other means.
7. Navigation channels shall be kept free of hazardous or obstructing development or uses.
8. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity).

In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

9. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this program.
10. Projects taking place on lands that a brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.
11. Project proponents for in-water work shall contact the Washington State Department of Fish and Wildlife and affected Tribes early in the development process.
12. Critical area studies may be required by the Shoreline Administrator pursuant to SMC 21.64.081 and 21.64.082 for development in, or adjacent to, critical areas and critical saltwater habitat areas.

## 5.2 General Shoreline Modification and Development Regulations

1. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline modification projects.
2. All new development activities shall be located and designed to prevent or minimize the need for shoreline stabilization and flood protection works such as bulkheads, other bank stabilization, fills, levees, dikes, groins, jetties or substantial site regrades. All development in the floodplain shall also include an assessment of potential effects the project would have on channel migration, and incorporate measures to mitigate any adverse impacts on channel migration.
3. The City shall require and utilize the following information during its review of shoreline modification activity, shoreline stabilization and flood protection proposals:
  - a. Purpose of project;
  - b. Hydraulic characteristics ;
  - c. Existing shoreline stabilization and flood protection devices;

- d. Construction material and methods;
  - e. Physical, geological and/or soil characteristics of the area;
  - f. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;
  - g. Alternative measures (including nonstructural) which will achieve the same purpose;
  - h. Physical or geologic stability of uplands; and
  - i. Potential impact upon area shore processes, adjacent properties and upland stability.
4. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon and trout spawning areas except when the primary purpose of the project is for fish or wildlife habitat enhancement.
  5. Shoreline stabilization or flood control works shall, to the extent possible, be planned, designed and constructed to allow for channel migration. These works shall not reduce the volume and storage capacity of rivers and adjacent wetlands or floodplains.

### 5.3 No Net Loss

1. Uses and developments that cause a net loss of ecological functions and processes shall be prohibited. Any use or development that causes the future ecological condition to become worse than current condition shall be prohibited.
2. All shoreline use and development, including preferred uses, emergency actions and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and/or maintained in a manner that maintains shoreline ecological processes and functions.

### 5.4 Mitigation

1. To assure no net loss of ecological functions, mitigation shall be applied to all developments or proposals subject to this Master Program to offset any impacts to shoreline ecological functions, habitats, or processes in the following sequence of steps listed in order of priority.
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action, or altering the action to avoid impacts;

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering or by taking affirmative steps to avoid or reduce impacts;
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - d. Reducing or eliminating the impact over time by preservation and maintenance operations; and
  - e. Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the impact and the mitigation project and taking appropriate corrective measures.
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. In addition to requirements of this section, SMC 21.64.087 shall apply.

## 5.5 Critical Areas Protection

### 5.5.1 Applicable Critical Areas

For purposes of this Program, the following critical areas, defined in SMC Title 21, will be protected under this Program:

1. Frequently Flooded Areas;
2. Wetlands;
3. Geologically Hazardous Areas;
4. Fish and Wildlife Habitat Conservation Areas; and
5. Aquifer Recharge Areas.

### 5.5.2 General Provisions

1. The City of Shelton Critical Area Protection Ordinance, SMC 21.64 (~~Ordinance No. 1689-1206, adopted December 18, 2006~~), the Aquifer Recharge Areas provisions in SMC 21.66, and the Flood Damage Prevention provisions in SMC 18.10 are hereby adopted in whole as a part of this Program, except for the following:
  - a. SMC 21.64.083 "Reasonable use:" Within shoreline jurisdiction, reasonable use requests must be processed as a Variance, consistent with Chapter 2, Section 2.5.

b. SMC 21.64.091 “Appeals:” Within shoreline jurisdiction, any appeals of an administrative decision shall be appealed to the state Shorelines Hearings Board pursuant to WAC 173-27-220 and the provisions of section 7.9 of this SMP.

~~e. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as amended.~~

~~d.c.~~ In shoreline jurisdiction, the definition of hydric soils in SMC 21.64.030 does not apply. The definition of hydric soil shall be derived from the language in the Corps of Engineers Wetland Delineation Manual and the U.S. Army Corps of Engineers (2010) Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0).

~~e. In shoreline jurisdiction, the wetland point scale to separate wetland categories in SMC 21.64.100 (D) does not apply. Category I wetlands are those that score 23 or more points, Category II wetlands are those that score between 20 and 22 points, Category III wetlands are those that score between 16 and 19 points, and Category IV wetlands are those that score between 9 and 15 points.~~

~~f. In shoreline jurisdiction, the wetland point scale used to assign wetland buffer dimensions in SMC 21.64.130(C) and (D) do not apply. Low wildlife function will be designated by habitat scores of 3-4 points, moderate wildlife function will be designated by habitat scores of 5-7 points, and high wildlife function will be designated by scores of 8-9 points. The tables are amended as follows:~~

Table 1. Buffer Dimensions:

Wetland Category	Low Wildlife Function (less than 5 points)	Moderate Wildlife Function (5-7 points)	High Wildlife Function (8-9 Points)
	Buffer Width (feet)		
Category IV	50	50	50 <sup>1</sup>
Category III	80	150	See Table 2
Category II	100	150	See Table 2
Category I	100	150	See Table 2

<sup>1</sup>Habitat scores over seven points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating system of sixteen or less.

**Table 2. Buffers for Wetlands with High Wildlife Function (Eight or Nine Points or More).**

Wetland Category	Points for Habitat from Wetland Rating Form	
	8	9
Category I, H, and III	195	225

All references to the Critical Area Protection Ordinance SMC 21.64 (CAO) are for this specific version.

~~g. In shoreline jurisdiction, the point scale used in reference to isolated wetlands in SMC 21.64.135(C) and (D.3) do not apply. Reference to 20 points or greater shall be to 5 points or greater.~~

2. Shoreline uses, activities, developments and their associated structures and equipment shall be located, designed and operated to protect the ecological processes and functions of critical areas.
3. Critical areas within the shoreline jurisdiction shall be regulated for any use, development or activity, as provided in accordance with this Program and SMC Chapter 21.64, whether or not a shoreline permit or written statement of exemption is required.
4. Provisions of the critical area regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.
5. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with SMC Title 21.64 Critical Areas.
6. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and SMC Chapter 21.64. However, these provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program.
7. Docks and piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
  - a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with the protection of the public trust, as embodied in RCW 90.58.020;
  - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

- c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- d. The project is consistent with the State's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that;

- a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

All over-water and near-shore developments in marine and estuarine waters shall provide an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology.

## 5.6 Site Planning and Development

### 5.6.1 General

1. Stormwater infiltration systems shall be employed to mimic the natural infiltration and groundwater interflow processes where feasible and in a manner consistent with SMC 21.64.380B and the currently adopted City Stormwater Management Manual.
2. Accessory uses that do not require a shoreline location shall be sited away from the shoreline and upland of the principal use.
3. Parking, storage, and nonwater-dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use, where feasible.
4. Impervious surfaces shall be minimized to the extent feasible. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized. Applicants are encouraged to use alternative surfaces and Low Impact Development (LID) techniques where feasible.
5. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be

provided with safe and convenient circulation facilities throughout project sites.

6. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement between properties and shoreline areas to the extent feasible.
7. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
8. Fencing, walls, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement, unless deemed necessary by Shoreline Administrator for safety and security purposes.

### 5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing, grading, fill and excavation shall minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of SMC Chapter 13.02 Stormwater Management, the City of Shelton Department of Public Works Design and Construction Standards, and SMC 21.64.330L.
2. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary to accommodate the authorized use.
3. Surface drainage systems or earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
4. Clearing and grading shall not result in substantial changes to surface water drainage patterns off of the project site and onto adjacent properties.
5. Upon completion of construction, remaining cleared areas shall be replanted with native vegetation and/or plant species.
6. Clearing and grading shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.
7. Clearing and grading shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
8. Fills shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
9. Fill waterward of OHWM shall be permitted as a conditional use only and under the following circumstances:

- a. In conjunction with a water-dependent or public access use permitted by this Master Program;
  - b. Cleanup and/or disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - c. Disposal of dredged material in accordance with a DNR Dredged Material Management Program;
  - d. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not to be feasible).
10. Fill waterward of the OHWM shall be permitted for mitigation and ecological restoration and enhancement projects, provided the project is consistent with all other provisions of this program.
11. Permitted fill activities waterward of the OHWM must demonstrate that they comply with the following standards:
- a. Alternatives to fill are not feasible;
  - b. Fill materials will not adversely affect water quality;
  - c. Fill shall be deposited to minimize disruption of normal surface and groundwater passage;
  - d. Timing will minimize damage to water quality and aquatic life.
12. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills.
13. Fill shall be permitted only where it is demonstrated that the proposed action will not:
- a. Result in significant damage to water quality, fish, shellfish and/or wildlife habitat; or
  - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
14. Fill within the one-hundred-year (100-year) floodplain requires demonstration that fill will not reduce the floodplain water storage capacity or in any way increase flood hazard so as to endanger public safety.
15. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration within stream subestuaries.

**Commented [rss1]:** This doesn't make sense here because the fill is being placed waterward of the OHWM.

16. Fill in wetlands shall be avoided whenever possible. Fills may be authorized where the applicant follows steps to avoid, minimize and mitigate impacts consistent with SMC 21.64.143 and 144.
17. Fills shall be designed, constructed and maintained to prevent, minimize and control all material movement, erosion and sedimentation from the affected area.
18. Fill materials shall be sand, gravel, soil, rock, crushed concrete or a similar material. Use of polluted dredge materials and sanitary fill materials is prohibited unless allowed as part of an interagency environmental cleanup plan.
19. Fills shall be designed to allow surface water penetration into groundwater supplies where such conditions existed prior to fill.
20. Applications for fill permits shall include the following:
  - a. Proposed use of the fill area;
  - b. Physical, chemical and biological characteristics of the fill material;
  - c. Source of fill material;
  - d. Method of placement and compaction;
  - e. Location of fill relative to natural and/or existing drainage patterns;
  - f. Location of the fill perimeter relative to OHWM;
  - g. Perimeter erosion control or stabilization means; and
  - h. Type of surfacing and runoff control devices.
21. Excavation shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
22. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.
23. Normal nondestructive pruning and trimming of vegetation for maintenance purposes, and removal of hazard trees, shall not be subject to these regulations. Specific provisions of the City of Shelton Critical Areas Ordinance may apply.
24. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed nonforestry use, the general provisions of this Program, and shall be limited to the minimum necessary to accommodate an approved use.

### 5.6.3 Building Design

1. Structures shall be designed to conform to natural contours and minimize disturbance to soils and native vegetation to the extent feasible.
2. Interior and exterior structure lighting shall be designed, shielded and operated, to the extent feasible, to:
  - a. Prevent glare on adjacent properties, public areas or roadways;
  - b. Prevent land, air, and water traffic hazards;
  - c. Reduce night sky effects; and
  - d. Avoid impacts to fish and wildlife.

## 5.7 Vegetation Conservation

1. Existing vegetation within shoreline jurisdiction shall be retained in the riparian zone consistent with Chapter 6, Table 6-3, SMC 21.64.320, and SMC 21.64.380.
2. Removal of native vegetation shall be avoided. Where removal of native vegetation cannot be avoided, it shall result in no net loss of shoreline ecological functions. Mitigation shall be provided consistent with an approved mitigation plan.
3. Selective pruning for safety and view protection is allowed provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.
4. Topping trees in the shoreline is prohibited.
5. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.
6. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to (1) commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority; or (2) flood control levees that are required to be kept free of vegetation that damages their structural integrity.

7. Clearing by hand held equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted within shoreline jurisdiction.
8. Aquatic weed control shall be allowed when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds.
9. Aquatic weed control methods that minimize disturbance to bottom sediment or benthic organisms shall be preferred.
10. Use of herbicides to control aquatic weeds shall be prohibited unless approved for such use by the appropriate agencies.
11. In addition to requirements of this section, SMC 21.64.071 shall apply.

## 5.8 Views and Aesthetics

1. Shoreline uses and shoreline activities shall not substantially reduce significant water views from public viewpoints.
2. Public street ends, public rights-of-way, and public utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.
3. Submerged public rights-of-way shall be preserved for public benefit.
4. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping (see 5.6.2 Clearing, Grading, Fill, and Excavation and 5.7 Vegetation Conservation).
5. Development on or over the water shall be constructed as far landward as possible to avoid impacting the shoreline and water views of surrounding properties.

## 5.9 Water Quality and Quantity

1. Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws and in such a manner as to ensure no net loss of ecological function.
2. All shoreline development shall minimize any increase in surface runoff through control, treatment and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affected. Control measures include but are not limited to: Low Impact

Development techniques (LID), dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive-dust controls.

3. All shoreline development shall comply with the applicable requirements of the currently adopted Stormwater Management Manual.
4. Herbicides and pesticides shall not be allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.
5. Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted by the appropriate agencies.
6. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Control Act (RCW 15.58) to prevent contamination and sanitation problems.
7. The release of oil, chemicals or other hazardous materials into the groundwater or surface water or onto shorelands is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
8. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any groundwater or surface water or to be discharged onto shorelands.
9. All materials that may come in contact with water shall be composed of nontoxic materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

## 5.10 Archeological, Cultural, and Historic Resources

1. Archeological sites located in shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archeological Sites)

and Records) and shall comply with WAC 25-48 as well as the provisions of this Master Program.

**2. Known Historic Properties:**

- a. Permits issued in areas known to contain archaeological resources shall include a requirement that the developer provide for a site inspection and evaluation by a professional archaeologist approved by the City. The archaeologist shall work in coordination with any concerned tribes and consult with the Washington State Department of Archaeology and Historic Preservation. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work resumes or begins on a project.
- b. When the City determines that a site has significant archaeological, natural scientific or historical value, a shoreline permit or exemption letter shall not be issued that would pose a threat to the resources of the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts, or mitigation plan.
- c. Identified historical or archaeological resources shall be considered in site planning for parks, public open space, and public access, with public access to such areas designed and managed so as to give maximum protection to the resource.

**3. Inadvertent Discovery:**

- a. Whenever archaeological resources are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the City, the Washington State Department of Archaeology and Historic Preservation, and affected tribes. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged.
- b. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the construction necessary to protect the project property may be exempted from the shoreline substantial development permit requirement. The City shall notify the State Department of Ecology, the State Attorney General's Office, the Department of Archaeology and Historic Preservation, and affected tribes within one (1) month of granting the exemption.

- c. Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the Shoreline Administrator may require that a historic property management plan be prepared by a qualified professional archaeologist if such action is reasonable and necessary to implement related program objectives.
4. Interpretive signs of historical and archaeological features shall be provided when appropriate.

## 5.11 Emergency Actions

1. Actions taken to address an emergency shall be reasonable under the circumstances; be designed to have the least possible impacts on shoreline ecological functions and processes; and be designed to comply with the provisions of this Master Program, to the extent feasible.
2. Emergency actions shall follow the procedures outlined in SMC 21.64.071(A), Emergency Actions.

## 5.12 Public Access

1. Dedicated space for physical public access shall be required to the extent allowed by law in the review of all shoreline substantial development or conditional use permits in the following circumstances:
  - a. The use or development is a public project; or
  - b. The project is a water-enjoyment or nonwater-oriented use or development; or
  - c. The project is a residential development of more than four (4) dwelling units; or
  - d. The project is a subdivision of land into more than four (4) parcels; or
  - e. The project is a private water-dependent or water-related use or development and one of the following conditions exists:
    - i. The project increases or creates demand for public access;
    - ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;
    - iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.

2. The City bears the burden of demonstrating that a proposed use or development meets any of the preceding conditions.
3. The public access requirement pursuant to Section 5.12 Regulation #1 is met where a residential development of greater than four (4) parcels/dwelling units but less than ten (10) parcels/dwelling units provides community access to the shoreline or to a common waterfront lot/tract for noncommercial recreational use of the property by property owners, residents and guests within the proposed subdivision or multi-family development. The proponent shall provide visual access to the shoreline via view corridors within the subdivision/multi-family development as illustrated on the final plan and as determined by the Shoreline Administrator. Existing lawfully established public access shall be maintained.
4. Public access to the shoreline shall not be required of the following:
  - a. Activities qualifying for a shoreline exemption, per Section 2.3;
  - b. New single-family residential development of four (4) or fewer units; or
  - c. More effective public access is provided through a City of Shelton public access planning process consistent with WAC 173-26-221(4)(c).
5. The Administrator may approve alternatives to on-site, physical public access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:
  - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;
  - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long-term cost of the proposed development;
  - d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from the public access;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; and
6. In order to meet any of the conditions under Section 5.12 Regulation #5 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
  - b. Designing separation of uses and activities (e.g., fences, terracing, hedges, landscaping, etc.); and
  - c. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
7. When on-site, physical public access is deemed to be infeasible based on considerations listed in Sections 5.12 Regulation #5 and 6, the applicant must demonstrate and the City must determine in its findings that visual access to the shoreline, physical access at an off-site location geographically separated from the proposed use/development (e.g., street end, vista, trail system), or community access for residential developments are not feasible. Community access must be provided to the shoreline or to a common waterfront lot/tract for noncommercial recreational use by property owners, residents and guests within the residential development.
  8. Public access associated with public projects should be consistent with the following, to the extent feasible:
    - a. Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.
    - b. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
  9. The design of shoreline uses shall consider steps to minimize blocking, reducing, or adversely interfering with the public's physical access to the water.
  10. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and RCW 36.87.130).
  11. Public access sites shall be connected directly to the nearest public street and shall include provisions for handicapped and physically impaired persons where feasible or required by law.
  12. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
  13. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running concurrently with the authorized land use, at a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).

14. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the City in conspicuous locations at public access sites. In accordance with Section 5.12 Regulation #6.a., signs may control or restrict public access as a condition of permit approval.
15. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.
16. Existing, formal public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.